

## INSTRUCTION GUIDE FOR THE PROGRAM APPLICATION AND RE-APPLICATION

1. **Eligibility.** A court-connected referral for dispute resolution service can be made only to a program approved by the Chief Justice of the Trial Court Department in which the referral is made. A “program” is defined in Rule 2 of the Uniform Rules on Dispute Resolution as follows: “An organization with which neutrals are affiliated, through membership on a roster or a similar relationship, which administers, provides and monitors dispute resolution services. A program may be operated by a court employee or by an organization independent of the court, including a corporation or a governmental agency . . .” The commentary to Rule 2 makes clear that a program must consist of a group of people.
2. **Approval of Programs.** All programs currently approved to provide court-connected alternative dispute resolution services in the Trial Court must reapply and any new programs seeking approval to provide court-connected dispute resolution services must apply for approval. The program application now differs for existing programs and for new programs.
  - A. **Existing Programs.** An “existing program” is a program that was approved in the previous application process (January 1, 2005 to December 31, 2006) and remains in good standing to receive referrals in the Trial Court Department(s) in which it was approved to provide services. The application for existing programs has been streamlined to allow updates of the information supplied in the previous application with a few additional questions. **If you are re-applying for approval you must provide a copy of your Dispute Resolution Program Report for the period of July 1, 2005 to June 30, 2006 for each court division served.**
  - B. **New Programs.** A “new program” is:
    - (i) A program seeking approval for the first time; or
    - (ii) A program previously approved in one department and seeking to provide services in another department; or
    - (iii) A program previously approved in a department and now seeking to add one or more dispute resolution methods to be used in the service provided to that department.
3. **Applicable Dates.**
  - A. A program seeking approval shall, no later than **November 17, 2006**, submit the Program Application form to the Trial Court Department or Departments in which the program seeks to receive referrals.

- B. The Departmental Chief Justices will make approval decisions no later than **January 1, 2007**.
- C. An approved program will be eligible to provide services commencing **January 1, 2007**.
- D. A program, unless no longer approved under the Uniform Rules of Dispute Resolution, retains its approval for a period of three years ending **December 31, 2009**.
- E. **Re-application Process.** Except for cases of demonstrated court need, the next application process will be for the period from **January 1, 2010 to December 31, 2012**. “Demonstrated court need” is defined as a court division or department without a program to serve a particular type of case, a vacancy due to the removal of a program from the current approved list, or, a need for additional services. Any interim approvals made pursuant to the “demonstrated court need” criterion will expire on December 31, 2009 requiring re-application in accordance with the uniform application process.

4. **Completing the Application.**

- A. Please type or print all answers.
- B. An Application will be approved or disapproved based on its contents alone. Applicants should, therefore, answer the questions as completely and descriptively as possible.
- C. The application consists of the following parts:
  - (i) The Cover Sheet
  - (ii) The Certification set forth on the cover page of the application to be signed by someone authorized to act as agent for the program, and
  - (iii) Fifteen Narrative Questions
  - (iv) List of Neutrals of neutrals who satisfy the qualification standards in the Uniform Rules on Dispute Resolution
- D. A program may append letters of support to its application.

5. **Departmental Requirements:**

- \_\_\_\_\_ A. **District Court:** The District Court Department is not approving programs that charge fees for dispute resolution services for court referred cases. If you are NOT currently approved and are seeking approval to provide services in one or more

District Court divisions you must obtain, and include with your application, a letter from the first justice of each such court division, reflecting his or her intention to utilize dispute resolution services of the type you intend to provide. The District Court Department prefers that the program application **NOT** be submitted via e-mail.

- \_\_\_\_\_ **B. Housing Court:** The Housing Court Department is taking applications for court-connected dispute resolution services. The Housing Court Department will continue to offer mediation and dispute intervention services in all types of cases through its “in-house” Housing Specialist Department. However, the Housing Court Department will now also consider applications from exterior programs with subject matter expertise in the areas of personal injury including lead paint, mold and asbestos, zoning litigation and environmental litigation in determining the need for court-connected dispute resolution options.
- \_\_\_\_\_ **C. Juvenile Court:** When determining program approval, the Juvenile Court Department will consider relevant subject matter expertise including, but not limited to, education and training in the areas of child and family welfare, permanency mediation and parent-child mediation.
- \_\_\_\_\_ **D. Land Court:** Chapter 205 of the Acts of 2006, effective August 2, 2006, establishes a permit session of the Land Court Department for specific environmental and land use cases which meet prescribed statutory thresholds. Under Section 15, the Land Court Chief Justice shall promulgate rules, subject to the approval of the CJAM, establishing a procedure for the assignment to mediation of disputes that have been filed with the permit session. The Land Court is in the process of establishing such rules and will be seeking programs with mediators who by reason of their past experience in private practice or practice with public agencies, or as jurists have particular skills related to environmental and land use permitting and/or disputes concerning the same, and who otherwise comply with Supreme Judicial Court Rule 1:18, Uniform Rules on Dispute Resolution.
- \_\_\_\_\_ **E. Probate and Family Court:** When determining program approval, the Probate and Family Court Department will consider relevant subject matter expertise including but not limited to training specifically in the areas of family law, family dynamics, child developmental issues, non-traditional families, complex financial issues (e.g., business evaluation, retirement benefits, tax consequences of divorce), permanency mediation and probate issues. Please indicate which neutrals on your roster have such subject matter expertise, and the dates and providers of any specialized training they have received.
- 6. Decision-making process.** The decision of the Chief Justice of the appropriate Department of the Trial Court is final as to whether or not a program is approved in that department.

**7. Submission of Applications.**

- A.** Applications may be submitted in hard copy or by e-mail.
- B.** In addition to sending the application to each applicable Department, one copy of the application must be sent to the Administrative Office of the Trial Court, 2 Center Plaza, 9<sup>th</sup> Floor, Boston, MA 02108, ATTN: Support Services Department or e-mailed to: [linnehan\\_t@jud.state.ma.us](mailto:linnehan_t@jud.state.ma.us).
- C.** The completed Application form must be **received** on or before **November 17, 2006** to the Chief Justice of the Department or Departments in which the program seeks eligibility to receive referrals. The names and addresses for the Chief Justices of each Department are:

Honorable Charles R. Johnson  
Chief Justice  
Boston Municipal Court Department  
Edward W. Brooke Courthouse  
24 New Chardon Street  
Boston, MA 02114-4703  
E-Mail: [brophy\\_c@jud.state.ma.us](mailto:brophy_c@jud.state.ma.us)

Honorable Lynda M. Connolly  
Chief Justice  
District Court Department  
Two Center Plaza, Suite 200  
Boston, MA 02108  
E-Mail: [deborah.propp@jud.state.ma.us](mailto:deborah.propp@jud.state.ma.us)

Honorable Martha P. Grace  
Chief Justice  
Juvenile Court Department  
3 Center Plaza, Suite 520  
Boston, MA 02108  
E-Mail: [annemarie.ritichie@jud.state.ma.us](mailto:annemarie.ritichie@jud.state.ma.us)

Honorable Steven D. Pierce  
Chief Justice  
Housing Court Department  
Edward W. Brooke Courthouse  
24 New Chardon Street  
Boston, MA 02114-4703  
E-Mail: [paul.burke@jud.state.ma.us](mailto:paul.burke@jud.state.ma.us)

Honorable Karyn F. Scheier  
Chief Justice  
Land Court Department  
226 Causeway Street  
Boston, MA 02114  
E-Mail: [arilenis.potter@jud.state.ma.us](mailto:arilenis.potter@jud.state.ma.us)

Honorable Sean M. Dunphy  
Chief Justice  
Probate and Family Court Department  
Two Center Plaza, Suite 210  
Boston, MA 02108  
E-Mail: [yurgelun\\_c@jud.state.ma.us](mailto:yurgelun_c@jud.state.ma.us)

Honorable Barbara J. Rouse  
Chief Justice  
Superior Court Department  
Suffolk County Courthouse  
3 Pemberton Square, 13<sup>th</sup> Floor  
Boston, MA 02108  
E-Mail: [slater\\_p@jud.state.ma.us](mailto:slater_p@jud.state.ma.us)

8. **Qualifications Standards for Neutrals.** All neutrals must satisfy the qualification standards found in Rule 8 of the Uniform Rules on Dispute Resolution in order to perform court-connected alternative dispute resolution services. Rule 8 of the Uniform Rules of Dispute Resolution took effect January 1, 2005. The rule establishes requirements for training, evaluation, mentoring, and continuing education and evaluation for the following seven categories of neutrals: mediators, arbitrators, case evaluators, conciliators, mini-trial neutrals, summary jury trial neutrals, and dispute intervenors. In addition, Rule 8 provides an alternative method for meeting these requirements.
9. **List of Neutrals.**
  - A. **Standard Training Requirement or the Alternative Method.** A program seeking approval or re-approval must complete and submit with its application a list of its neutral who meet the standard training requirement or the alternative method. Please see Form 1 found in the Program Application.
  - B. **Limited Exemption.** In addition to the list of neutrals who meet the standard training requirement or the alternative method, some neutrals in **existing programs** remain qualified under the limited exemption. The Limited Exemption was created as a one time exemption for mediators, arbitrators, case evaluators and conciliators from the training, mentoring and evaluation requirements of Rule 8. This exception is based on certain experience-based criteria found in Rule 8 (k)(iii). **This exemption has now expired for all new programs.** However, a program that previously qualified its neutrals pursuant to Rule 8(k)(iii) is required to list those neutrals on Form 2 found in the Program Re-application.
11. **Certification.** A program seeking to be approved must certify in the application that its neutrals meet the requirements of Rule 8 and the accompanying Guidelines promulgated by the Chief Justice for Administration and Management. A summary of the requirements of Rule 8 and the Guidelines are enclosed with the Program Application. Rule 8 of the Uniform Rules of Dispute Resolution and the Guidelines can be found on the Internet at [[www.state.ma.us/courts/admin/legal.html](http://www.state.ma.us/courts/admin/legal.html)].